IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1305 (M/S) OF 2001
OLD NO. 46841 OF 1999

Garhwal Mandal Vikash Nigam Ltd.,
74/1 Rajpur Road,
Dehradun through its Managing Director .....Petitioner

Versus

1. Additional District Judge, II, Dehradun,
2. Upper Civil Judge IIIrd Senior Division, Dehradun.
3. Raghumath Das S/o Pratap Chand C/o Ranjeet Kumar
   R/o 30/8, Rajpur road, Dehradun. .....Respondents

12.04.2006

Sri P.C. Bist, learned counsel for the petitioner.
Learned Standing Counsel for the respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri P.C. Bist, Counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 11.08.1999 and 12.10.1999 passed by the respondent no. 2 & 1 respectively.

Briefly stated according to the petitioner a suit No.415/92 was filed by respondent no.3 seeking a permanent injunction against the petitioner. The suit was contested by the petitioner. The petitioner has moved an application for appointment of the Survey Commissioner. The application was rejected. The petitioner has preferred the revision before the District Judge, the revision was dismissed.

According to the Petitioner, he has raised the objection with regard to the maintainability of the suit. Civil Court is directed to decide the question with regard to the maintainability of the suit. If suit is held to be maintainable, Presiding Officer shall also reconsider the question of the appointment of Survey Commissioner, in accordance with law.

Subject to the aforesaid observation, writ petition is disposed of at this stage.

(Rajesh Tandon, J.)

12.04.2006
Jain